

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IDRIS ENLOW,	)	2:11cv856
	)	Electronic Mail
Plaintiff,	)	
	)	Judge Cercone
v.	)	Chief Magistrate Judge Lenihan
	)	
JEFFREY A. BEARD, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

This suit commenced with the receipt of Plaintiff's civil rights complaint and a motion to proceed *in forma pauperis* on June 28, 2011. (ECF No. 1.) Plaintiff's motion was eventually granted and his complaint was filed on August 15, 2011. (ECF No. 11.) This case was referred to Magistrate Judge Lisa Pupo Lenihan for all pretrial proceedings in accordance with the Magistrate Judge's Act, 28 U.S.C. § 636(b)(1), and Local Rules for Magistrate Judges.

Defendant Dr. Rueda filed a Motion to Dismiss Plaintiff's complaint on October 17, 2011. (ECF No. 37.) On April 2, 2012, the Magistrate Judge entered a Report and Recommendation (ECF No. 62) recommending that the Motion to Dismiss be granted and that Plaintiff's Americans with Disabilities Act claim against Dr. Rueda be dismissed with prejudice but that his Eighth Amendment claim be dismissed without prejudice to his right to file an amended complaint. Plaintiff was advised that he had until April 19, 2012, to file written objections to the Report and Recommendation. No objections were filed.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered.

AND NOW, this 21<sup>st</sup> day of April, 2012,

**IT IS HEREBY ORDERED** that the Motion to Dismiss filed by Dr. Rueda (ECF No. 37) is **GRANTED**. Plaintiff's Americans with Disabilities Act claim against Dr. Rueda is hereby **DISMISSED WITH PREJUDICE** but his Eighth Amendment claim is **DISMISSED WITHOUT PREJUDICE** to his right to file an amended complaint within **THIRTY (30) DAYS** of the date of this order. Plaintiff should amend his complaint with respect to Defendant Dr. Rueda only and the amendment should be limited to the issues raised in the Report and Recommendation with respect to Plaintiff's Eighth Amendment claim. If Plaintiff fails to file a curative amendment within **THIRTY (30) DAYS** from the date of this order, Plaintiff's Eighth Amendment claim against Dr. Rueda will be dismissed with prejudice.

**IT IS FURTHER ORDERED** that the Report and Recommendation dated April 2, 2012 (ECF No. 62) is **ADOPTED** as the opinion of the Court.



David Stewart Cercone  
United States District Judge

cc: John F. Mizner, Esquire  
Joseph M. Kanfer, Esquire  
Douglas B. Barbour, Esquire  
Samuel H. Foreman, Esquire  
Shari Pakravan, Esquire

*(Via CM/ECF Electronic Mail)*